

Supreme Court Summaries
Opinions filed June 16, 2016

People v. Rizzo, 2016 IL 118599

Direct appeal from the Circuit Court of Cook County.

JUSTICE KARMEIER delivered the judgment of the court, with opinion.

Chief Justice Garman and Justices Thomas, Kilbride, and Theis concurred in the judgment and opinion.

Justice Burke specially concurred, with opinion, joined by Justice Freeman.

This is a direct appeal to the Illinois Supreme Court from a holding of statutory unconstitutionality entered in the circuit court of Cook County. In 2013, Illinois State Police observed this defendant driving 100 miles per hour on a Chicago portion of the Kennedy Expressway that was posted for 55 miles per hour. He was ticketed for aggravated speeding and brought to trial in proceedings that ended with the trial judge's declaration that the statutory provision then in effect, which precluded a disposition of supervision for this offense, was unconstitutional under the proportionate penalties clause of the Illinois Constitution. This provision states that "penalties shall be determined *** according to the seriousness of the offense***." Since 2005, the identical elements test has been used to resolve proportionate penalties questions, and the cross-comparison test, utilized before that time, has been abandoned. The prosecution appealed, bringing the cause before the supreme court. The circuit court judge found the identical elements test for proportionate penalties analysis was not met, but the circuit court also looked to offenses with different elements to conclude the challenged preclusion of supervision amounted to cruel and degrading punishment, a proposition which the supreme court rejected here. The supreme court also rejected the circuit court's reliance on the concept of collateral consequences of not receiving supervision, that is, of being convicted. Collateral consequences cannot qualify as penalties for purposes of comparison under the proportionate penalties clause. The supreme court also rejected the circuit court's attempt to show a violation of due process. The supreme court said that the circuit court's various theories lacked support in the law or in judicial precedent. No evidentiary hearing was held by the circuit court and no findings of fact were made. The heavy burden of showing statutory unconstitutionality was not met here.

The judgment of the circuit court was reversed, and the cause was remanded for further proceedings.